



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Mirko Djurdjevich, *et al.*,

Plaintiffs,

—v—

Flat Rate Movers, Ltd., *et al.*,

Defendants.

17-cv-261 (AJN)

ORDER ADOPTING REPORT AND
RECOMMENDATION

ALISON J. NATHAN, District Judge:

Before the Court is Judge Barbara Moses’s August 5, 2020 Report & Recommendation recommending that the Court dismiss without prejudice the claims of plaintiff Najdan Nikolic due to his failure to participate in discovery, even after the Court ordered him to respond to written discovery by June 10, 2020 and to appear for deposition by July 10, 2020. Dkt. No. 112 (“R & R”).

When considering the findings and recommendations of a Magistrate Judge, the Court may “accept, reject, or modify [them], in whole or in part.” 28 U.S.C. § 636(b)(1). The Court must make a *de novo* determination of any portions of a magistrate’s report or findings to which a party raises an objection, and reviews only for “clear error on the face of the record” when there are no timely objections to the R & R. *Banks v. Comm’r of Soc. Sec.*, No. 19-cv-929 (AJN) (SDA), 2020 WL 2765686, at *1 (S.D.N.Y. May 27, 2020); *see also Brennan v. Colvin*, No. 13-cv-6338 (AJN), 2015 WL 1402204, at *1 (S.D.N.Y. Mar. 25, 2015); *Hicks v. Ercole*, No. 09-cv-2531 (AJN) (MHD), 2015 WL 1266800, at *1 (S.D.N.Y. Mar. 18, 2015); *Gomez v. Brown*, 655 F. Supp. 2d 332, 341 (S.D.N.Y. 2009). Clear error is found only when, upon review of the entire record, the Court is left with “the definite and firm conviction that a mistake has been

committed.” *Laster v. Mancini*, No. 07-CV-8265 (DAB) (MHD), 2013 WL 5405468, at *2 (S.D.N.Y. Sept. 25, 2013) (quoting *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006)).

As of this date, no objections to the R & R have been filed, and the deadline for objections has passed. *See* R & R at 5. Thus, the Court reviews the R & R for clear error, and it finds none. The Court therefore adopts the R & R in its entirety and GRANTS Defendant’s motion to dismiss plaintiff Nikolic’s claims without prejudice for the reasons provided in Judge Moses’s R & R.

SO ORDERED.

Dated: November 30, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", is written above a horizontal line.

ALISON J. NATHAN
United States District Judge